REMARKS

In the Office Action dated July 10, 2006, a typographical error was noted in claim 18, which has been corrected. Typographical errors were also noted in claims 51 and 53, however, the language in which the typographical error occurred has now been embodied in claims 4 and 17, respectively, and therefore no correction in claims 51 and 53 is necessary.

Claims 5 and 18 were rejected under §112, second paragraph as lacking antecedent basis for the term "said magnetic field." In response, new claims 55 and 56 are submitted herewith, which include the step of applying a magnetic field. Claim 5 has been made to depend from claim 55, and claim 18 has been made to depend from claim 56.

All claims are therefore submitted to be in full compliance with all provisions of §112. Claims 4, 5, 17, 18 and 51-54 were rejected under 35 U.S.C. §103(a) as being unpatentable over Liu et al. in view of Hasegawa. Claims 4, 15, 17, 18 and 51-54 also were rejected under 35 U.S.C. §103(a) as being unpatentable over Herzer or Herzer et al.

In response, each of independent claims 4 and 17 has been amended to state that the alloy composition is selected to include at least one of either No or Nb, and further to state that, among the other properties possessed by the annealed article due to a combination of the composition, the temperature and the tensile stress, the annealed article also exhibits a change in resonant frequency with respect to a change in magnetization field strength (df/dH) that is less than 1000 Hz/Oe.

Support for these changes in the independent claims is present in specification as originally filed, at least in paragraph [0068] (first paragraph on page 26 of the substitute specification).

Independent claims 4 and 17 would not have been obvious to a person of ordinary skill in the field of designing amorphous alloys for magneto-acoustic markers based on the teachings of Liu et al. and Hasegawa, for the following reasons.

The Hasegawa reference does not disclose an alloy having a composition according to amended claims 4 and 17. In Table 5, Hasegawa discloses alloys that include molybdenum, but these alloys do not have a value of df/h that is less than 1000 Hz/Oe. The alloys disclosed in the Hasegawa reference that contain molybdenum, therefore, are not suitable for use as a magneto-acoustical marker in an electronic article surveillance system. As argued in Applicants' previous response, the Hasegawa reference also does not teach that alloys having this composition exhibit $dH_k/d\sigma>0$.

The Examiner has already acknowledged that the Liu et al. reference does not teach the alloy composition that was set forth in claims 4 and 17 in their previous form, and therefore the same is true with regard to amended claims 4 and 17. Even if the Liu et al. alloys were modified in accordance with the teachings of the Hasegawa reference, therefore, the subject matter of claims 4 and 17 still would not result. Claims 4 and 17, and the claims respectively depending therefrom, therefrom are patentable over the teachings of Liu et al. and Hasegawa.

Applicants further submit that claims 4 and 17 would not have been obvious to a person of ordinary skill in the field of designing amorphous alloys for magneto-acoustic markers for the following reasons.

Neither the Herzer reference nor the Herzer et al. reference relied upon by the Examiner teach an alloy composition according to amended independent claims 4 and 17 that has a value of df/dH that is less than 1000 Hz/Oe, and a value of $dH_k/d\sigma$ that is greater than 0.

Moreover, as argued in Applicants' previous response, it was not predictable from the prior art that an alloy having a composition within the range set forth in independent claims would have a positive value for $dH_k/d\sigma$, which would allow stress annealing to be employed in the manufacturing thereof. Additionally, it was not predictable from the prior art that alloys having a composition within the range set forth in independent claims would have a value of df/dH that is less than 1000 Hz/Oe, thereby making the alloy suitable for use as a marker in a magneto-acoustic (magneto mechanical) article surveillance system.

Applicants therefore submit all claims of the application re in condition for allowance, and early reconsideration of the application is respectfully requested.

Submitted by,

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